

1 PLEASE TAKE NOTICE that on November 28, 2007 at 1:30 p.m., or as soon thereafter
2 as the matter can be heard in Courtroom C of the above-entitled court, Defendant Provident Life
3 & Accident Insurance Company (erroneously sued as Unumprovident Insurance Company) will
4 and does hereby move the Court for an order dismissing the first, second, third, fourth, fifth,
5 sixth, seventh and eighth causes of action of Plaintiff's Complaint herein.

6 This motion is made on the basis that there is no basis for a cause of action under the Fair
7 Debt Collection Practices Act, 15 U.S.C. § 1692 a, *et seq.*, California, Civil Code § 1788, *et seq.*,
8 or Business & Professions Code Sections 17200, *et seq.*, there are no grounds to support an
9 injunction, Plaintiff has failed to properly allege a cause of action for defamation, intentional
10 infliction of emotional distress, breach of contract and breach of the implied covenant and that
11 there is no basis in law for a "bad faith" cause of action. This motion is based upon this notice
12 and motion, the attached points and authorities, the pleadings on file in this action and upon such
13 oral argument as shall be allowed at the hearing of this motion.

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15 KELLY, HERLIHY & KLEIN LLP

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17 Dated: October 22, 2007

By _____/s/_____

18 John C. Ferry

19 Attorneys for Defendant

PROVIDENT LIFE AND ACCIDENT

20 INSURANCE COMPANY (erroneously sued as
21 UNUMPROVIDENT INSURANCE COMPANY

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